

# COMMONWEALTH OF VIRGINIA

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## VIRGINIA HOUSING COMMISSION

### Meeting Summary

#### **Housing Affordability, Real Estate Law and Mortgages Work Group General Assembly Building, House Room D August 17, 2010, 1:00 P.M.**

##### **I. Welcome and call to order**

- **Delegate John Cosgrove, Chair**
  - The meeting was called to order at 1:06 P.M.

##### **II. HB 1152—Foreclosure of affordable dwelling units (Scott, 2010)**

- **Karen Harwood, Legislative Liaison, Fairfax County**
  - HB 1152 requires that a locality or housing authority that operates an affordable dwelling unit (“ADU”) under state authority be notified if the unit goes into foreclosure. The type of notice is the same as other lien parties get when a unit is going to be foreclosed upon. The bill would also give the housing authority the right to purchase the unit for the purchase price at the time of the foreclosure.
  - A meeting was held in Richmond last week with stakeholders to discuss the bill. Unfortunately, no consensus could be reached on any issue. There is concern that aspects of the ADU programs are not in concert with Federal Housing Authority (“FHA”) guidelines which is necessary for homeowners to get insurance. The FHA guidelines have not been revisited since 1994; the regulations don’t anticipate a price controlled unit and the concept that it might go into foreclosure. I think somehow the FHA needs to be approached to discuss modifying its guidelines to take into account a price controlled affordable unit. Unfortunately I don’t see this bill having any success this session.
- **Delegate Cosgrove—Who would the proper entity be to talk to FHA?**
- **Karen Harwood—We in Fairfax County would like to approach them and the Virginia Housing Development Authority (“VHDA”) may partner with us.**
- **Judson McKellar, General Counsel, Virginia Housing Development Authority**
  - We fully support what Fairfax is trying to do because absent their efforts ADUs can be lost through foreclosure. The problem is FHA has these sixteen year-old guidelines which don’t recognize a locality stepping in to purchase a foreclosure or prevent a foreclosure.

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DELEGATE JOHN A. COSGROVE  
DELEGATE DAVID BULOVA  
DELEGATE ROSALYN R. DANCE  
DELEGATE DANIEL W. MARSHALL, III  
DELEGATE G. GLENN ODER

SENATOR MAMIE E. LOCKE  
SENATOR JOHN C. WATKINS  
SENATOR MARY MARGARET WHIPPLE

F. GARY GARCZYNSKI  
T. K. SOMANATH  
MELANIE S. THOMPSON

- I would think FHA would be willing to issue new regulations. The problem is getting their attention and getting the guidance issued. VHDA would be pleased to participate with the localities to get this work done.
- **Delegate Cosgrove**—*Hopefully the localities and VHDA can get together and solve this problem together.*

### III. Affordable housing units; assessments (§ 58.1-3295) (SB 273—Whipple, 2010) (HB 233—Dance, 2010).

- **Mark K. Flynn, Virginia Municipal League**
  - This bill is intended to protect the process from misinterpretation by judges. There was an amendment at the end of session last year to make the provisions of the bill apply to four or fewer houses. Section 3295 of the Code of Virginia says notwithstanding exception you have to comply with 3294. All this bill does is make iron clad the intent of the governor's amendment. There is not attempt to change policy, only clarify the statutory language. Senator Whipple, one of the bill's patrons, was fine with the concept of clarifying the language.
- **Chip Dicks, Virginia Association of Realtors**—*Mark and I worked on these bills as part of the veto session. Senator Whipple was fine with the language then. At this point we need to talk to Senator Whipple and Delegate Dance but we don't anticipate them having any problem with it.*
- **Delegate Cosgrove**—*Let us know when they give us the okay with the language.*

### IV. Ratio Utility Billing Systems (RUBS)

- **Melodie Seau, Division Chief, City of Alexandria Landlord-Tenant Relations Board**
  - RUBS is a method of allocating costs of utilities to apartments where units are not individually metered. Utility bills are distributed to individual units based on an allocation formula.
  - In Alexandria we are receiving continuous complaints from tenants about the application of RUBS. As of July 1, 2010 the landlord can now anticipate utility costs when billing tenants; the anticipated price must have some relationship to the utility bill. There have been cases where a tenant has received a water bill that is higher than his/her regular bill and they want to know why. The statute requires that the landlord make the master utility bill available to the tenants. The landlord tells the tenant to contact a third party billing company. When the tenant contacts the billing company they tell the tenant to contact their landlord.
  - The Code of Virginia authorizes the State Corporation Commission ("SCC") to promulgate regulations that enforce sub metering equipment, but does not give them authority to promulgate regulations to force landlords to comply with provisions of the statute. There is no one enforcing this law.
- **Delegate Cosgrove**—*You mentioned the idea of a tenant getting an extra water bill. It would seem to me that meant there was a leak some place. A leak is a maintenance related issue. Are those tenants responsible for the building not being maintained?*
- **Melanie Seau**—*Yes. There is one master bill that is split equally amongst the tenants, it is not divided up. In order to see the bill a tenant has to write to the landlord. The landlord then has 21 days to produce the bill or the tenant may terminate the rental agreement after 30 days. However, tenants just want to see the bill, not terminate their lease.*

- SCC says there needs to be a legislative change in order for them to promulgate and enforce the regulations. But they currently cannot as the law is written.
- **Delegate Marshall**—*Who was the patron of the first bill?*
- **Melanie Seau**—Delegate Drake and then Delegate Oder.
- **Delegate Cosgrove**—*Do you have an ongoing bill currently?*
- **Melanie Seau**—No not currently, we need to be sure any bill we draft is actually going to address the problem.
- **Delegate Cosgrove**—*The data you presented us was Alexandria specific, do you have any idea throughout the rest of the state if there are more metropolitan areas dealing with the same issues?*
- **Melanie Seau**—The only other localities I've talked to about this problem are in Northern Virginia. They are getting similar types of complaints. I don't know if it's current practice for the rest of the state.
- **Delegate Cosgrove**—*The real issue here is the tenants want to see the overall bill so they know how they are being charged*
- **Melanie Seau**—They do. If the bill is increasing—which is when they usually contact the landlord—they want to know why.
- **Patrick McCloud**, *Central Virginia Apartment Association*—*If the landlord fails to produce the bill, the tenant has other remedies available, they may terminate the lease, rent the unit, pay money into an escrow etc.*
- **Delegate Cosgrove**—*Is there any proprietary reason why an owner would not want to show the bill?*
- **Patrick McCloud**—No, I cannot think of one. Tenants just want to know what they're getting is fair.
- **Chip Dicks**—*The RUBS concept generated from the idea that tenants who were in charge of paying their own utilities were better at conserving the utilities. During the General Assembly session it was decided that the SCC is the appropriate entity to regulate sub-metering and you need from a public health standpoint to make sure everything is up to standards. The SCC may not be the proper party to enforce a contract between tenant and landlord. Landlords are under a contractual obligation—if they calculate the bills incorrectly they will be subject to penalties.*
- **Melanie Seau**—Based on what you are saying, for a 30 dollar water bill increase a tenant will have to hire an attorney or go pro se into court against a landlord who already has an attorney just to see a master bill.
- **Chip Dicks**—*I'm not suggesting the tenant get an attorney. I don't think the SCC is the proper agency to enforce this.*
- **Melanie Seau**—If the SCC is not the appropriate agency, then perhaps some other agency could be tasked to do this. As an alternative, perhaps there could be enabling legislation that would allow localities to go out and do this.
- **Delegate Cosgrove**—*I would suggest an Alexandria delegate work with Mr. Dicks and members of the apartment groups to come up with a solution.*

## V. Mandatory Student Housing

- **Brian Gordon**, *Apartment and Office Building Association*
- **Meade A. Spotts**, *Management Services Corporation (MSC)*—Private housing providers have enabled universities to focus spending on building freshman housing and classrooms. The MSC has experienced one situation as Farmville where there is a mandated on campus housing. Three major providers constructed over 1,000 beds off campus to meet housing needs but the school mandated that freshman, sophomores and juniors stay on campus. Two out of the three providers had to sell out because they couldn't keep afloat. Mandated campus housing is fine in unique situations. Its use of a state granted monopoly against private enterprise. If students want to stay on campus, why mandate it?
  - In Farmville they went from 2,500 beds to 3,400 beds. There is a mandate that all are filled.
  - Long term effect of policy—no private industry is going to come in and invest.
- **Delegate Cosgrove**—*Is there a differential in cost between a mandated room and a rented room?*
- **Meade A. Spotts**—Yes, there is a very large differential. The situation in Farmville is peculiar to the administration that has been there. Trying to establish money on a non-core element when you have a private industry willing and able to provide the same services for a lower price.
- **Trey Steigman**, *Vice-President Development, MSC*—Longwood University has gone from a college to a university and set the goal to expand from 4,000 to 5,000 students over a period of time. That's a significant expansion for an area like Farmville. MSC built private housing in the area that accommodated 400 beds. Originally we were competing with other private housing but they went under and were acquired by the foundation, we are now competing with mandated student housing. The disparity between mandated student housing cost averages a 10% increase year to year. No private housing provider can have that kind of increase. Meal plans have risen 14% a year coupled with tuition and fees—the cost to students for enrollment is very high. The rates for next year, 2010/2011 room and board rates the monthly costs are \$714 a month. In private housing the monthly cost is \$425 a month for same nine month lease. The only difference is the university rates include utilities.
  - We looked at comparable market, Radford, there they saw a 2.5% increase in cost over a year.
- **Delegate Marshall**—*The governor has a commission on higher education affordability has this been forwarded to him?*
- **Meade A. Spotts**—No, not yet, but it will be.
- **Delegate Cosgrove**—*This issue does need to go before governor's commission. I would think the appropriations and finance committees would need to hear this as well. This is very disturbing to me. Do students not living on campus incur any penalty?*
- **Meade A. Spotts**—The penalty has been included as part of the students' application for on campus housing. When you apply the form says that you could not have applied for any off campus housing. If you lie that is considered an honor code violation. You must receive permission from the university to be released from mandatory housing as a junior.
- **Kelly Harris-Braxton**—*It would be interesting to hear from the university. The school is trying to raise revenue. My guess is that if they don't do something the tuition and fees would go up.*

- **Delegate Cosgrove**—*Longwood University was told we would be having this meeting, yet; there are no representatives from Longwood present here today. The president is ill, so he couldn't come but the discussion would be more complete with Logwood presenting there side of the issue. Perhaps it is a problem to have the state competing with the private sector in this way and mandating that students have to live in their housing. I intend to go to Farmville and talk to the President about the University request to build two new residence halls by 2016.*
- **Delegate Cosgrove**—*Are students mandated to stay on campus also mandated to use a meal plan?*
- **Trey Steigman**—Yes, there is a minimum meal plan required of all university housing residents.

## **VI. Adjourn**

- The meeting was adjourned at 3:10 P.M.